

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

BRODERICK W. SEAY, JR.
PETITIONER
VS.
SHERIFF AL CANNON
RESPONDENT

C/A No:
2:17-2814-TMC-MGB

RECEIVED CLERK'S OFFICE

2018 JAN 17 1 A 4 27

U.S. DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON, SC

RE: MOTION OF OBJECTION FOR EXTENSION OF
TIME / DISMISSAL OF CHARGE AS BIAS
AND PREJUDICE.

THEREFORE, NOW COMES PETITIONER IN A PRO-SE
MOTION ASKING THIS HONORABLE COURT TO DISMISS
THIS CASE FOR THE FOLLOWING REASONS.

THE RESPONDENT HAD UNTIL 1-3-18 TO DO THERE
RETURN. THE RESPONDENT HAS SIMPLY FAILED TO
DO HER JOB.

PETITIONER REQUEST THIS HONORABLE COURT TO
DO THERE DUTY, AND TAKE THIS MOTION AS A DE-
FAULT, BECAUSE RESPONDENT FAILED TO DO A TIMELY
RETURN AS REQUESTED BY THE HONORABLE JUDGE.

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Broderick Seay Jr.
PETITIONER

PETITIONER KNOWS THAT CONGRESS COULD NOT REALLY HAVE MEANT TO ELIMINATE SUCH AN ESSENTIAL PROCEDURE TO A PETITIONER. IF THE COURT IS NOT PERSUADED THAT IT CAN ENTER A DEFAULT JUDGMENT. THEN MAY THIS HONORABLE COURT MOVE TO FILE A COMTEMPT OF COURT ORDER ON RESPONDENT FOR NOT DOING A TIMELY RETURN AS REQUESTED.

THE DOUBLE JEOPARDY CLAUSE BARS A SECOND PROSECUTION FOR THE SAME OFFENSE ONLY IF JEOPARDY ATTACHED IN THE ORIGINAL PROCEEDING. IN A CRIMINAL PROCEEDING, JEOPARDY ATTACHES WHEN THE PETITIONER FACES A POTENTIAL DETERMINATION OF GUILT. IN A JURY TRIAL, JEOPARDY ATTACHES WHEN THE JURY IS IMPANELED AND SAWN. SEE MARTINEZ V. ILL. 134 S. CT. 2070. 2074-75 [2014] JEOPARDY ATTACHED WHERE JURY IMPANELED AND SAWN. HOFFLER V. BEZIO 726 F.3D. 144, 146 [2D CIR. 2013] U.S. V. MODANLO, 762 F.3D 403, 410 [4TH CIR. 2014] JEOPARDY ATTACHED WHERE JURY IMPANELED AND SAWN. AND U.S. V. RIVERA 384 F.3D 49, 56 [3D CIR. 2004] NO MANIFEST NECESSITY BECAUSE JUDGE DID NOT CAREFULLY CONSIDER ALTERNATIVES BEFORE DECLARING MISTRIAL BASED ON UNAVAILABILITY OF WITNESS. THIS IS THE SAME ISSUE AS PETITIONERS CASE. WALCK V. EDMONDSON, 472 F.3D 1227, 1238 [10TH CIR. 2007] NO MANIFEST NECESSITY

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Petitioner

DUE TO FAILURE OF PROSECUTION'S KEY WITNESS
TO TESTIFY, THIS IS THE SAME CASE AS PETITIONER'S
CASE ALSO.

WHEREFORE PETITIONER REQUEST THIS HONORABLE
COURT TO SET HIM AT HIS LIBERTY AND DISMISS
THIS CASE AS BIAS AND PREJUDICE.

Broderick Seay Jr.
PETITIONER

CERTIFICATE OF SERVICE

I BRODERICK W. SEAY JR. DO HEREBY CERTIFY
THAT I HAVE THIS DATE SERVED A COPY OF PETITIONER'S
MOTION TO OBJECT FOR EXTENSION OF TIME AND
DISMISAL OF CHARGE.

THIS 11. DAY OF JAN. 2018

DEPOSITING ONE COPY OF THE SAME IN THE U.S.
POSTAL MAIL AS ADDRESSED.

MELODY J. BROWN
P.O. Box 11549
Co. S.C. 29211

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PETITIONER